

PATENT COOPERATION TREATY

PCT



INTERNATIONAL PRELIMINARY EXAMINATION REPORT (PCT Article 36 and Rule 70)



Applicant's or agent's file reference SP-1598.2 WO		FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/ISA/E416)	
International application No. PCT/US 03/19385	International filing date (day/month/year) 20.06.2003	Priority date (day/month/year) 20.06.2002	
International Patent Classification (IPC) or both national classification and IPC F21L4/02			
Applicant EVEREADY BATTERY COMPANY, INC. et al.			

- This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 7 sheets, including this cover sheet.
 - ☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.
- This report contains indications relating to the following items:
 - I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application

Date of submission of the demand 19.01.2004	Date of completion of this report 09.09.2004
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EXAMINATION REPORT**

International application No. **PCT/US 03/19385**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-10 as originally filed

Claims, Numbers

1-16 as originally filed

Drawings, Sheets

1/3-3/3 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	3, 8-16
	No: Claims	1, 2, 4-7
Inventive step (IS)	Yes: Claims	
	No: Claims	1-16
Industrial applicability (IA)	Yes: Claims	1-16
	No: Claims	

2. Citations and explanations

see separate sheet

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Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Cited documents

1 Reference is made to the following documents:

D1: GB-A-2 329 011

D2: DE-U1-201 15 797

D3: WO-A1-00/55685

Document D1 is considered to represent the closest prior art.

Lack of novelty

2 The present application does not meet the requirements of Article 33(2) PCT, because the subject-matter of claims 1, 2 and 4-7 is not new.

Claim 1

2.1 Document D1 (the reference signs in brackets refer to D1) discloses the following features of claim 1 (see abstract, page 10, line 24 - page 11, line 7, fig. 2):

2.11 A lighting device comprising:

a housing;

a first light emitting diode (212) located on the housing;

a second light emitting diode (212) located on the housing and spaced from the first (212) light emitting diode;

a first magnifier lens (216) arranged in a light path of the first light emitting diode (212) for focusing a first light beam onto a target area;

a second magnifier lens (216) arranged in a light path of the second light emitting diode (212) for focusing a second light beam onto the target area; and

a support member (217) for supporting the first and second magnifier lenses (216) relative to the first and second light emitting diodes (212), respectively.

2.2 Consequently, the subject-matter of claim 1 is not new considering what is known from document D1.

Claims 2 and 4-7

- 2.3 Dependent claims 2 and 4-7 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and inventive step, the reasons being as follows:
- 2.4 The additional features provided in these claims are known from document D1 (see page 10, line 24 - page 11, line 7, fig. 2).
- 2.5 Consequently, the subject-matter of claims 2 and 4-7 is not new considering what is known from document D1.

Lack of inventive step

- 3 The present application does not meet the requirements of Article 33(3) PCT, because the subject-matter of claims 3, 8, 9 and 10-16 is not considered to involve an inventive step.

Claim 10

- 3.1 Document D1 (the reference signs in brackets refer to D1) discloses the following features of claim 10 (see abstract, page 10, line 24 - page 11, line 7, fig. 2):
- 3.11 A lighting device comprising:
- a housing;
 - a first light emitting diode (212) located on the housing;
 - a second light emitting diode (212) located on the housing and spaced from the first (212) light emitting diode;
 - a first magnifier lens (216) arranged in a light path of the first light emitting diode (212) for focusing a first light beam onto a target area;
 - a second magnifier lens (216) arranged in a light path of the second light emitting diode (212) for focusing a second light beam onto the target area; and
 - a support member (217) for supporting the first and second magnifier lenses (216) relative to the first and second light emitting diodes (212), respectively.
- 3.2 Consequently, the difference between the invention according to claim 10 and what is known from D1 is that in the invention according to claim 10 the cover is

supporting the first and second magnifier lenses relative to the first and second light emitting diodes, respectively.

- 3.3 This difference is a slight constructional change which comes within the scope of the customary practice followed by persons skilled in the art, especially as the advantages thus achieved can readily be foreseen. Consequently, the subject-matter of claim 10 lacks an inventive step.
- 3.4 Also starting from any of the documents D2 or D3 a reasoning regarding Inventive Step can be made for both independent claims 1 and 10. A reasoning that shows a lack of Inventive Step for the independent claims 1 and 10 (in D2 see abstract, page 2, last paragraph - page 3, first paragraph, fig. 3, in D3 see abstract, page 48, line 21-27, fig. 35).

Claims 3, 8, 9 and 11-16

- 3.5 Dependent claims 3, 8, 9 and 11-16 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of inventive step, the reasons being as follows:
- 3.6 The additional features provided in the claims 3, 8, 9 and 16 would be considered an obvious design choice by the person skilled in the art.
- 3.7 The additional features provided in claims 11-15 are known from document D1 (see page 10, line 24 - page 11, line 7, fig. 2).

Conclusion regarding novelty, inventive step and industrial applicability

- 4 The subject-matter of claims 1, 2 and 4-7 is not new, the subject-matter of claims 3, 8, 9 and 10-16 is not considered to involve an inventive step, and the subject-matter of claims 1-16 is considered to be industrially applicable.

Additional deficiencies

- 5 The last sentence in the description, on page 10, line 3-6 makes the scope of protection unclear (Article 6 PCT and PCT International Preliminary Examination Guidelines, Ch. III-4.3a).
- 5.1 Independent claims 1 and 10 are not in the two-part form in accordance with Rule 6.3(b) PCT, which in the present case would be appropriate, with those features

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known in combination from the prior art (document D1) being placed in the preamble (Rule 6.3(b)(i) PCT) and with the remaining features being included in the characterising part (Rule 6.3(b)(ii) PCT).

- 5.11 In the present case, the features defined in paragraph 2.11 above are known in combination from the document D1 and belong in the preamble of such a claim.
- 5.2 The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).
- 5.3 Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the document D1 is not mentioned in the description, nor is this document identified therein.